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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/631,025	07/29/2003	Richard Ticktin	SLBS-004	9517
23552	7590	11/22/2006	EXAMINER	
MERCHANT & GOULD PC P.O. BOX 2903 MINNEAPOLIS, MN 55402-0903			OGDEN JR, NECHOLUS	
			ART UNIT	PAPER NUMBER
			1751	

DATE MAILED: 11/22/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/631,025	TICKTIN, RICHARD	
	Examiner	Art Unit	
	Necholus Ogden	1751	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>12/05</u> | 6) <input type="checkbox"/> Other: _____ |

Response to Amendment

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

3. Claims 1-2, 6, 10, 14-16, 18-20, 22, 24, 26-27 are rejected under 35 U.S.C. 102(b) as being anticipated by Burdon et al (5,635,466).

Burdon et al disclose a concentrated surfactant cleaning composition comprising 50-90% by weight of alkyl ether sulfate; at least 0.5% by weight of an alkaline earth metal; and viscosity control agents such as short chain alcohols or hydrotropes (col. 2,

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lines 39-60 and col. 3, lines 1-47). With respect to the water content, Burdon et al teach that said water content in concentrated form is about 4.5% by weight (see example 1, col. 5, lines 25-34).

As this reference teaches all of the instantly required it is considered anticipatory.

Alternatively, if the compositions are not anticipated they would nonetheless been obvious to one of ordinary skill in the art to combine the components of Burdon et al to specifically teach the claimed invention because each of the components are taught and suggested by the art of record.

4. Claims 1-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Cao et al (5,922,664).

Cao et al disclose a pourable detergent concentrate, which may maintain or increase in viscosity after dilution. Cao et al further teach that said concentrates has a dilution level in the range from about 0.5 to about 5 volumes of water (col. 3, lines 55-57). Furthermore, said concentrate comprises surfactants such as anionic sulfates, alkyl benzene sulfonates and alkyl ether sulfates; nonionic surfactants; amphoteric surfactants such as betaines; and cationic surfactants (col. 4, line 6-col. 5, line 45). Moreover, Cao et al further teach the inclusion of viscosity modifiers such as electrolytes and in particular alkali or alkaline metal chlorides (col. 6, lines 42-45). With respect to the use of said concentrates, Cao et al teach that said concentrates are used as detergents, shampoos, body douche and body lotions (col. 6, lines 61-64). Furthermore, adjunct ingredients are also incorporated such as dyes, perfumes, bactericides, fungicides, preservatives and skin conditioners (col. 7, lines 1-5).

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Cao et al disclose all of the instantly required except a specific teaching with respect to the ratios of suspension matrix to water.

It would have been obvious to one of ordinary skill in the art to combine the suspension matrix and water in the ratios as claimed given that Cao et al encompasses the dilution volume as claimed and encompasses the final water volume of the compositions.

Therefore, one of ordinary skill in the art with a reasonable expectation of success would have been motivated to combine the suspension matrix and water in the ratios as claimed, absent a showing to the contrary.

Response to Arguments

5. Applicant's arguments filed 3-8-2006 have been fully considered but they are not persuasive.

Cao et al teach water volumes of 0.5 to 5.0 ratios of water to suspension matrix of surfactants from 10to 60% by weight (col. 6, lines 39-41) therefore, one of ordinary skill would have been able to modify the ranges to encompasses the claimed ratios of the instant invention in view of the broad range of water and suspension matrix disclosed in Cao et al. It has been held obvious to the artisan in absence of a showing to the contrary, where the claimed ranges "overlap or lie inside ranges disclosed by the prior art" a prima facie case of obviousness exists In re Wertheim, 541 F.2d 257, 191 USPQ 90 (CCPA 1976). Similarly, a prima facie case of obviousness exists where the claimed ranges and prior art ranges do not overlap but are close enough that one skilled in the art would have expected them to have the same properties. Titanium Metals Corp. of America v. Banner, 778 F.2d 775, 227 USPQ 773 (Fed. Cir. 1985).

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Applicant argues that Cao teaches at least two surfactant and the claims require at least one.

The examiner contends that the phrase "at least one" reads on more than one surfactant such as two or more. Moreover, applicant's claims have a transitional phrase of "comprising" which is open to include additional ingredients not specified in the claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Necholus Ogden whose telephone number is 571-272-1322. The examiner can normally be reached on M-T, Th-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on 571-272-1029. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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A handwritten signature in black ink, appearing to be 'N' followed by a long horizontal stroke.

Nicholas Ogden
Primary Examiner
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No
11-18-2006